

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

NOAH POLEGA,

v. Plaintiff,
Case No. 17-cv-757-pp

BRIAN FOSTER,
DR. GROSSMAN, and
JOHN/JANE DOES 1-10,

Defendants.

**ORDER DENYING PLAINTIFF'S MOTION TO USE FUNDS FROM RELEASE
ACCOUNT TO PAY FILING FEE (DKT. NO. 7)**

The plaintiff, Noah Polega, is a Wisconsin state prisoner representing himself. He has filed a complaint alleging that the defendants violated his constitutional rights. Dkt. No. 1. The plaintiff also has filed a motion to use funds from his release account to pay the filing fee. Dkt. No. 7.

A release account is a restricted account maintained by the Wisconsin Department of Corrections, for use when the prisoner is released from custody upon completion of his sentence. Wis. Admin. Code §DOC 309.466. The point of a release account is to make sure that, when a prisoner is released back into the community, he has some funds to help him begin his new life. If an inmate uses up his release account on things like filing fees, he won't have that safety net.

Although the court can order disbursement from the release account for payment of the initial partial filing fee, the Prison Litigation Reform Act does

not require the court to invade that account for payment of the balance of the filing fee. See 28 U.S.C. §1915(b). The law allows a prisoner to pay the remaining balance over time, by having the institution deduct “twenty percent of the preceding month’s income credited to the prisoner’s account.” 28 U.S.C. §1915(b)(2). “Nothing in this language can be interpreted as congressional intent that prisoners deplete savings or release account balances in order to pay off their filing fee debts.” Carter v. Bennett, 399 F. Supp. 2d 936, 937 (W.D. Wis. 2005); see also Doty v. Doyle, 182 F. Supp. 2d 750 (E.D. Wis. 2002). Given the rationale for segregating funds into a release account, and without a federal law requiring the court to allow prisoners to pay filing fees out of their release accounts, the court declines to order the plaintiff’s institution to invade his release account to pay the balance on the filing fee.

The plaintiff owes the filing fee for this case. If he does not have sufficient funds to pay the fee, he may file a petition to proceed without prepayment of the filing fee. The court will mail the plaintiff a form petition along with this order.

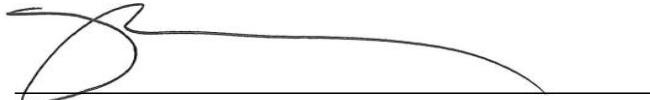
The court **DENIES** the plaintiff’s motion to use funds from release account to pay filing fee. Dkt. No. 7.

The court **ORDERS** that the plaintiff **either** file a petition to proceed

without prepayment of the filing fee (using the enclosed form), **or** pay the \$400 filing fee, within **twenty-one days of the date of this order.**

Dated in Milwaukee, Wisconsin this 13th day of July, 2017.

BY THE COURT:



HON. PAMELA PEPPER
United States District Judge